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Draft regulations on exploitation of mineral resources in the Area

Note by the Legal and Technical Commission

I. Introduction

1. At its meetings in March 2018, the Legal and Technical Commission continued its discussion on the draft regulations on the exploitation of mineral resources in the Area. This included consideration of the requests made by the Council to the Commission (see ISBA/24/C/8, sect. VIII), and responses made by members of the Authority and other stakeholders to the draft regulations issued in August 2017 by the secretariat.[1]

2. In the light of the Commission's comments, the secretariat prepared a revised text for the Commission's consideration at its July meetings (see ISBA/24/LTC/WP.1 and ISBA/24/LTC/WP.1/Add.1). A note providing an overview of the structure and content of the revised draft and other matters for the Commission's inputs, together with a flowchart of the application approval process was also prepared by the secretariat (see ISBA/24/LTC/6). At its July 2018 meetings, the Commission made further progress in developing the draft regulations and has issued a revised text (ISBA/24/LTC/WP.1/Rev.1).[2]

3. The purpose of the present note is to provide an update to the Council on the requests made to the Commission and to highlight those matters requiring further investigation or study by the Commission and matters requiring the Council's direction or guidance (see ISBA/24/C/8, para. 20). In addition, to assist the Council in its forthcoming deliberations on the draft regulations, the annex to the present note provides commentary on specific draft regulations. The present note addresses the majority of the requests made by the Council in relation to the draft regulations and

[1] ISBA/23/LTC/CRP.3.

[2] The revised document incorporates document ISBA/24/LTC/WP.1/Add.1 (draft environmental impact statement template). Text boxes are used in document ISBA/24/LTC/WP.1/Rev.1 to highlight key changes to the regulatory text of ISBA/24/LTC/WP.1. There is no change either to the structure of the parts or to the draft regulation numbering between the documents.

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highlights key matters discussed by the Commission and, where applicable, action to be taken.

4. The present note does not provide an update on the development of an economic model for mining activities in the Area and associated financial terms for future exploitation contracts. Following on from a joint meeting with the Finance Committee on 13 July 2018 to discuss a work programme for the payment mechanism and equitable sharing criteria (as requested by the Council: see ISBA/24/C/8, para. 22 (j)), an oral report will be made to the Council by the respective chairs of the Committee and the Commission, which will include an update on the work to be undertaken by both the Committee and the Commission.

II. Key matters requiring further investigation or study by the Commission

5. There are a number of areas that require continuing examination by the Commission. These are as follows:

6. **Common heritage of mankind** (see ISBA/24/C/8, para. 22 (a)). The Council requested that the Commission consider ways in which the principle of the common heritage of mankind can be reinforced in the operative provisions in the regulations, including assessment at the application process. While the Commission examined this issue and has proposed specific regulatory text,[3] the Commission considers that this remains an ongoing issue for examination as the regulations undergo further development. This will include, in particular, the extent to which a proposed plan of work contributes to realizing benefits for mankind as a whole, and how this will be assessed (see draft regulation 12, para. 4).

7. **Information flowing from activities under an exploration contract and an application for the approval of a plan of work for exploitation** (see ISBA/24/C/8, para. 22 (b)). The Commission examined the documentation and information requirements under section 11 of a standard exploration contract and its relevance in supporting an application for exploitation. The Mining Workplan (draft regulations, annex II) now reflects this data and information requirement, recognizing the continuum between exploration and exploitation activities. The Commission notes that guidelines will be required to clarify specific information requirements against the content headings of the Mining Workplan. The data and information requirements flowing from section 11 of the standard clauses of the exploration contract, together with the accompanying pre-feasibility or feasibility study, will be key to the review of an application by the Commission.

8. **Determining how exploration activities under an exploitation contract would be regulated** (see ISBA/24/C/8, para. 22 (b) (iv)). The Commission continued to examine how exploration activities under an exploitation contract would be regulated (see ISBA/24/LTC/6, paras. 26–28).

9. *Resource-specific provisions* (see ISBA/24/C/8, para. 22 (l)): The Commission will keep this matter under review and proposes that resource-specific requirements could be dealt with in annexures to the regulations. To this end, the Commission has asked the secretariat to reflect on a suggested process for the adoption of technical annexures, with reference to existing best practice under other international instruments.

10. **Timelines and deadlines** (see ISBA/24/C/8, para. 22 (o) (ix)). The Commission concurs with the requirement for certainty in the regulatory process, both at the stage

[3] See draft regulations 2 (1) and (2), 12 (4) and 16 (1).

of application and ongoing regulation. While a number of regulatory provisions do specify clear timelines for decision-making and review processes, there remain a number of references to, for example, the Commission's consideration of documentation "at its next available meeting" (e.g., draft regulation 9, para. 2; draft regulation 21, para. 3; draft regulation 24, para. 3). Similarly, the timing of meetings of the Council will also impact timelines. The Commission considers that the institutional functioning of the Authority must be kept under review for the purpose of regulatory approvals, and ways and means identified to facilitate the approvals process.

11. **Adverse effects on developing countries** (see ISBA/24/C/8, para. 26). At its March 2018 meetings, the Commission reflected on the relevant text from the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea. In connection with advancing a study of the potential impact of mineral production from the Area, the Commission notes that the terms of reference for a study remains work in progress by the Commission and will be presented to the Commission for adoption in March 2019. The timing of an impact study will be provided to the Council in July 2019. The Commission does note that a new draft regulation (draft regulation 3 (g)) was inserted to anticipate a need for data and information to prepare future impact studies as exploitation activities advance.

12. **Matters relating to sponsoring States** (see ISBA/24/C/8, paras. 31–33). The Commission notes the importance of clarifying the respective roles of the Authority and sponsoring States. The Commission understands that the secretariat is advancing discussions with the International Maritime Organization as regards jurisdictional competence and areas of cooperation and will examine these matters in connection with sponsoring States with a view to the development of a matrix of duties and responsibilities of regulatory actors.

13. **Standards and guidelines** (see ISBA/24/C/8, paras. 35–39). In connection with standards development, the Commission has prepared broad terms of reference for a multi-stakeholder workshop to examine and draw up a list of standards relevant to activities in the Area. The workshop will consider a process for the development of standards, together with the preparation of an indicative list of standards by subject area. The workshop will also reflect on the issue of which standards should be legally binding and how standards are best reflected and incorporated into the regulations. The Commission has requested the secretariat to develop a workplan based on the terms of reference, with a view to facilitating a first workshop in the first quarter of 2019. The Commission also requested that the terms of reference draw upon the work already undertaken at a workshop held in Berlin in March 2017.[4]

14. As to the development of guidelines, the Commission requested the secretariat to provide a list of those guidelines referred to in the draft regulations, together with indicative content, and for the Commission's review and recommendations on a way forward in March 2019, including consideration of a subsequent workshop.

15. **Environmental policy framework** (see ISBA/24/C/8, para. 40 (c)). The Commission notes the importance of developing an overarching environmental policy framework and the significance of regional environmental management plans under such a framework. In view of two recent workshops on regional environmental

[4] ISA Technical Study No. 17, *Towards an ISA Environmental Management Strategy for the Area. Report of an International Workshop convened by the German Environment Agency (UBA), the German Federal Institute for Geosciences and Natural Resources (BGR) and the Secretariat of the International Seabed Authority (ISA) in Berlin, Germany, 20–24 March 2017.*

management plans[5] and the existing environmental management plan for the Clarion-Clipperton Fracture Zone, the Commission will reflect on the specific content of a framework at its March 2019 meetings.

16. **Contract area and mining area** (see ISBA/24/C/8, para. 22 (o) (vii)). The Commission considers that the draft regulations now provide clear definitions for, and distinction between, these two areas. The Commission will keep these concepts under review as the regulations progress, and revert to the Council for any guidance.

17. **Amendments to the proposed Plan of Work** (draft regulation 15 (2)). This draft regulation allows the Commission to suggest amendments to the proposed Plan of Work, prior to the Commission's recommendations to the Council. The regulation provides that an applicant may agree to or reject the suggested amendments or make an alternative proposal to the Commission, but does not provide clarity on what happens if an applicant rejects outright any proposed amendment by the Commission. The Commission will continue to consider the content and implementation of this draft regulation.

18. **Terminology**. the Commission highlights that a number of terms and phrases in the current draft text may require further consideration to provide certainty in operationalizing the legal framework, either in the draft regulations or subsequent guidelines, for example, the use of the word "optimize" (see draft regulation 29, para. 1). The Commission notes that other terms referred by the Council (e.g., the definition of commercial production: see ISBA/24/C/8, para. 27 (e)) remain for further examination by the Commission.

III. Matters requiring the Council's direction, guidance or comment

19. The Council is invited to consider the following items as part of its review of the revised draft regulations and to provide the Commission with further direction, guidance or comments.

20. **Structure of the draft regulations** (see ISBA/24/C/8, para. 22 (o) (i)). The Commission has re-examined the structure and activity flow of the relevant parts of the draft regulations. While this matter will remain under review, the Commission welcomes any further observations from the Council as to the structure and flow of the parts and underlying regulations.

21. **Balance of rights and obligations** (see ISBA/24/C/8, paras. 22 (o) (ii) and 40 (e)). Does the Council now consider that the draft regulations (a) reflect the appropriate balance of a contractor's rights and obligations, in particular in part III, and (b) that part IV (together with VI and related annexures) adequately addresses the effective protection of the marine environment (bearing in mind the need to develop an appropriate mix of standards and guidelines)?[6]

22. **Balance between certainty and predictability, as well as flexibility and adaptability** (see ISBA/24/C/8, para. 22 (m)). The Commission is conscious of the need to develop a regulatory framework that provides certainty, predictability and

[5] Workshop for Developing a Framework for Regional Environmental Management Plans for Polymetallic Sulphide Deposits in Mid-Ocean Ridges, held in Szczecin, Poland from 27 to 29 June 2018; Workshop on Development of a Regional Environmental Management Plan, held in Qingdao, Shandong Province, China, from 26 to 29 May 2018.

[6] The Commission takes note of the Council's request at paragraphs 22 (f) and (g) of document ISBA/24/C/8 relating to the viability of the regulations from a technology, scientific and environmental perspective, and in considering the commercial viability of the regulatory provisions, and will keep these under review as the regulatory framework progresses.

stability for the contractor base and other stakeholders, while at the same time providing flexibility and adaptability to adjust the framework as the industry develops and new knowledge becomes available. That balance, at times, is a delicate one. Subject to draft regulations 50, 55 and 56, the Authority's ability to amend an individual exploitation contract and underlying plan of work is restricted by the contract, in particular the security of tenure provision. That said, under an exploitation contract, a contractor must comply with the regulations, and other rules of the Authority, as amended from time to time (see sect. 3.3 (a), Standard clauses for exploitation contract, ISBA/24/LTC/WP.1/Rev.1). Equally, a contractor must carry out its activities in accordance with good industry practice, which includes the standards adopted by the Authority. It must also observe any guidelines, as far as reasonably practicable (see draft regulations, sect. 3.3 (c), Standard clauses for exploitation contract, annex X). Any amendments to the regulations, adoption of standards or the issue of guidelines having a material impact on contractor operations should be consulted on in advance of any amendments or adoption. In the light of these provisions, does the Council consider that the existing provisions provide an appropriate balance between certainty and predictability, as well as providing flexibility and adaptability?

23. **The roles of organs of the Authority and the balance of authority** (see ISBA/24/C/8, para. 42). This was a matter placed before the Council in March 2018 as one of six common themes (ISBA/24/C/CRP.1, annex VI), including consideration of the need for efficient decision-making in the implementation of the regulations.

24. The Commission has examined the balance of authority in the draft regulations. Compared with earlier drafts, the draft regulations now requiring the consent or approval of the Council are draft regulation 23 (Use of exploitation contract as security); draft regulation 24 (Transfer of rights and obligations); and draft regulation 26 (Documents to be submitted prior to production). The Secretary-General has decision-making authority in connection with draft regulation 25 (Change of control); draft regulation 31 (Optimal Exploitation under a Plan of Work); draft regulation 38 (Insurance (modification)); and draft regulation 101 (Compliance notice and termination of exploitation contract).

25. It is noted that draft regulations 26 and 55 (Modification of a Plan of Work by a Contractor) do give rise to potential delays in the recommendation (Commission) and approval (Council) processes. The Commission noted the Council's observation that provisional decision-making by the Secretary-General may be an option. This may give rise to uncertainty and risk in the legal framework, if such decisions are implemented by a contractor but subsequently overturned by the Council. Consequently, the Commission invites guidance or comments from the Council as to whether the provisions of the draft regulations set out in paragraph 24 above reflect an appropriate balance of authority, bearing in mind the time taken for decision-making. In particular, the Council is requested to provide guidance on whether there are functions that could be delegated to the Secretary-General under an appropriate authority and guidance framework.

26. **Confidentiality of information** (draft regulation 87). The Commission is of the view, in the light of prior stakeholder submissions and of the need for transparency in data and information availability, that the starting point for confidentiality of information is one of a presumption of the public availability of data and information in relation to an exploitation contract and the activities undertaken under such a contract. From this starting point, a list of confidential data and information would be developed. The Commission invites the Council to consider whether the proposed starting point for the development of a confidentiality regime, as set out in draft regulation 87, paragraph 1, is appropriate.

27. **Annual fixed fee** (draft regulation 83, para. 5). Under section 8, paragraph 1 (d) of the annex to the 1994 Agreement, an annual fixed fee is payable from the date of commencement of commercial production and may be credited against other payments due by a contractor under the system of payments adopted. While the basis for the calculation of the fee is being evaluated by the Commission, the Council is invited to provide guidance on the circumstances under which the annual fixed fee would be credited against other payments.

IV. Other matters

28. In the course of the Commission's discussions, a number of other matters were raised for future consideration by the Commission, including the following.

29. **Inspection mechanism** (part XI). In the course of its review of this part, the Commission noted its obligation to make recommendations to the Council regarding the direction and supervision of a staff of inspectors (see Convention, art. 165 (2) (m)). The Commission requested that the secretariat outline possible inspection mechanisms, including the focal points for such inspections, interaction with sponsoring States mechanisms, developing a code of conduct for inspectors and the use of remote monitoring technologies.

30. It was noted that, as part of a comprehensive environmental (and social) assessment process that additional consideration be given to the potential for adverse socioeconomic impacts of future mining activities (e.g., on fisheries, including any impacts on small island developing States). It was considered that, while the environmental impact statement provided for such consideration,[7] future environmental impact assessment guidelines would need to reflect the potential for such impacts.

[7] See draft Environmental Impact Statement template, sect. 9 (ISBA/24/LTC/WP.1/Rev.1, annex IV).

Annex

Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)	*Regulation heading*	*Reference to ISBA/24/C/8 (where applicable)*	*Comments by the Commission on the text of specific regulations*
2	Fundamental principles	Para. 40 (e) (iv)	Paragraph 8 of this draft regulation promotes the application of these key principles and that activities are undertaken in conformity with such principles. The wording will be revisited given the circular nature of the language in paragraph 8 and the introductory paragraph.
3	Duty to cooperate and exchange of information		The duty to cooperate is fundamental to the implementation of the regulations, and the text of this draft regulation has been expanded and moved to part I (i.e., as compared with its content and positioning in earlier drafts).
13	Assessment of applicants		The Commission noted that guidelines would be needed to support implementation of the criteria and the parameters for the Commission's determination of the financial capability and technical capability of an applicant, and that a plan of work is technically achievable and economically viable (draft regulation 13 (4) (a)).
14	Consideration of the environmental plans by the Commission		The Commission will examine this regulation, in particular the criteria to be applied for its determination under paragraph 2 and the relevant spatial scale.
19	Rights and exclusivity under an exploitation contract	Para. 22 (o) (ii) and (vii)	This draft regulation clarifies a contractor's exclusive right to Explore for, and Exploit the mineral resource by reference to the definitions in schedule 1.
21	Term of exploitation contracts		The Commission will consider further the documentation requirements under paragraph 2 as regards a renewal, including a revised plan of work.
22	Termination of sponsorship	Para. 33 (a)	The 12-month termination period under draft regulation 22 (2) remains an open issue for discussion. The rationale for increasing the term to 12 months (from 6 months under the exploration regulations) is in recognition that it could take some time for a contractor to locate another sponsoring State.
23	Use of exploitation contract as security	Para. 33 (c)	This remains a complex and technical regulation to implement. To advance thinking on this matter, the Commission requires a number of questions to be addressed, including: what are the alternatives for raising finance? What are the potential financing structures and the location of financing vehicles? What are the typical terms of any potential encumbrance? In what jurisdiction would any claim be enforced? What is the position of the original transferor? The Commission has requested that the secretariat advance discussions with contractors to understand possible financing arrangements, and their implications.

Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)	*Regulation heading*	*Reference to ISBA/24/C/R (where applicable)*	*Comments by the Commission on the text of specific regulations*
24	Transfer of rights and obligations		The Commission will consider the implications of paragraph 10 of this draft regulation and section 14.3 of the standard clauses for exploitation contract. The Commission noted that a number of national regimes provide for a tax, or other such levy, on the transfer of rights for mining or petroleum production and that this should be considered as part of ongoing discussions on the system of payments.
25	Change of control		This draft regulation is not related to a change of control per se, but the consequences of such change on the financial capability of a contractor. That is, there is no requirement for prior consent but a review as to whether the contractor will continue to meet its financial obligations, including that of the Environmental Performance Guarantee.
26	Documents to be submitted prior to production		Substantive changes have been made following discussions within the Commission as regards delivery of a feasibility study and the subsequent review and approval mechanism. The focus is now placed on any Material Changes to the plan of work approved at the application stage. The language in this draft regulation is a major departure from the original text of draft regulation 29 in document ISBA/23/LTC/CRP.3.
27	Environmental performance guarantee	Para. 22 (o) (iv)	The content of this draft regulation has been expanded as to the purpose of an environmental performance guarantee and events that would trigger a review of the amount of the guarantee. The content is considered provisional until discussion is advanced, in particular with regard to the objective and purpose of such a guarantee, and in connection with other environmental incentive approaches (in particular, funds, insurance, fees, liability).
31	Optimal Exploitation under a Plan of Work		The Commission noted a number of concerns expressed by stakeholders in connection with this draft regulation, as it is perceived as regulating the production rate per se, and may not be the most effective way to ensure that mining activities are commercially efficient and environmentally sensitive. Suggestions from stakeholders included that the Authority should make recommendations of an advisory nature or provide for a notification procedure where the production rate deviates by a particular percentage from a mining workplan. The Commission notes that the intention of this draft regulation is not to regulate commercial production but for the Authority to have oversight in ensuring that the resources of the common heritage are being mined and processed according to good industry practice. The Commission further notes a similar provision in section 51 of the Mineral and Petroleum Resources Development Act of South Africa. The revised text in document ISBA/24/LTC/WP.1/Rev.1 now reflects a more consultative approach between the contractor and the Secretary-General in the implementation of this regulation, rather than the Secretary-General being in a position to issue corrective measures. This

Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)	*Regulation heading*	*Reference to ISBA/24/C/8 (where applicable)*	*Comments by the Commission on the text of specific regulations*
			recognizes that an approved Mining Workplan is in place, but that its modification may be required for the circumstances contemplated under the draft regulation.
33	Reasonable regard for other activities in the Marine Environment	Para. 22 (o) (v)	While document ISBA/24/LTC/WP.1 now reflects a reciprocal obligation in respect of reasonable regard, the Commission notes that any future processes, such as that of consultation with other users, may require outlining, in particular with regard to the roles and responsibilities of the Authority, sponsoring States and contractors in such consultation processes.
38	Insurance	Para. 22 (o) (x)	This draft regulation is a placeholder and is subject to further investigation as to specific insurance requirements. Insurance requirements, and what categories of insurance are or will be commercially available (e.g., environmental liability insurance), remain to be investigated, together with post-closure obligations and their duration.
46 bis.	Environmental Impact Statement	Para. 40 (e) (i)	The requirements for the delivery of a comprehensive environmental impact assessment need further discussion: the Commission has asked the secretariat to give this due consideration as to timing and process for development.
46 ter.	Environmental Management and Monitoring Plan	Para. 40 (e) (ii)	Comments as for draft regulation 46 bis.
48	Restriction on Mining Discharges	Para. 40 (f)	The Authority is now a sponsoring organization of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection. Working group 42 of the Joint Group is considering the impacts of wastes and other matter in the marine environment from mining operations. The Commission considers that the work of this group is of relevance to the International Seabed Authority, and will consider the working group's report, currently under preparation, in due course.
52–54	Environmental Liability Trust Fund	Para. 25 (n)	These draft regulations are placeholders for further discussion as to the most appropriate environmental performance incentive tools and for compensation for environmental damage. The concept of such a fund was put forward by the Seabed Disputes Chamber in its Advisory Opinion of 1 February 2011 to cover, specifically any environmental liability gap. The rationale for such a fund, its purpose (and its sources of funding) requires discussion as part of an overall environmental incentive mechanism.

Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)	*Regulation heading*	*Reference to ISBA/24/C/8 (where applicable)*	*Comments by the Commission on the text of specific regulations*
55	Modification of a plan of work by a contractor		This draft regulation is now focused on a material change and the related process and approval mechanism, including with regard to a material change to the environmental plans. What constitutes a material change will need to be informed by guidelines. The Commission has requested the secretariat to seek best practice guidance on this and to examine the definition of material change in schedule 1.
61	Incentives	Paras. 25 (n) and 28	The Commission has requested that the secretariat update its study of mining fiscal regimes in the light of recent changes to and developments in extractive industry fiscal regimes. This will also include a review of possible incentive structures for consideration by the Commission.
83	Annual fixed fee	Para. 27 (d)	The Commission notes that this annual fee, its purpose, function and basis for calculation requires re-evaluation.
87	Confidentiality of information		In the light of stakeholder responses, the Commission considers that developing a list of what constitutes confidential information is a good basis on which to advance the issue of confidentiality in a practical way. While the Commission acknowledges that certain broad categories of information (e.g., environmental information) should be made publicly available, other categories, such as technological data, may be kept confidential for some time. That is, certain information will only become publicly available at different times. While it may be too early to identify a definitive list, an indicative list should be prepared which would be considered dynamic in nature, and populated with further detail over time. The Commission considers the following questions as key to advance discussion: • What is the starting point? A presumption of public availability? • What are the criteria for building a list of confidential data? • What goes into the list, i.e., with regard to the degree of specificity? • What is the process, including that for amending the list, and a process for validating the list (e.g., Council decision?). The Commission also identified a practical issue in connection with the development of standards and how the issue of confidentiality would impact this. The Commission noted that the Guidelines for reporting and submission of offshore petroleum data of the Government of Australia could be a useful reference point in developing an information classification list. Further advice will be sought in connection with intellectual property protection regimes.

Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)	*Regulation heading*	*Reference to ISBA/24/C/8 (where applicable)*	*Comments by the Commission on the text of specific regulations*
104	Settlement of disputes	Para. 22 (o) (viii)	The administrative review mechanism contained in draft regulation 93 in document ISBA/23/LTC/CRP.3 has been deleted, in the light of stakeholder feedback, in particular that of member States of the Authority expressing concern that such a mechanism could undermine the finely crafted dispute mechanism in the United Nations Convention on the Law of the Sea.
Appendix IV	Determination of a royalty liability		The Commission has established a working group to consider the design of the metals baskets and their valuation for the three mineral resource categories, recognizing the variation in constituent metals, and metal grades.
Schedule 1	Best available techniques	Para. 22 (e)	The Commission considered the value of incorporating the concept of best available techniques into the draft regulations, in order to both guide and foster the development of technology, while recognizing that further work is required to develop the concept, on its placement in the relevant parts of the regulations and on ongoing development and review mechanisms. Given the dynamic nature of this concept, and facilitating the necessary adaptability and flexibility to develop technology, criteria for best available techniques must be developed. Note: A workshop on risk will be held in November 2018 to discuss and to suggest criteria for best available techniques.
Schedule 1	Best environmental practice		Given the dynamic nature of this concept, the Commission considers that criteria must be developed for its operationalization.
Schedule 1	Exploit and Exploitation	Para. 22 (b) (iii)	The definition for Exploitation has reverted to that in the exploration regulations, except for the addition of "with exclusive rights", decommissioning and closure, and reflecting the boundary of activities in the Area.
Schedule 1	Good Industry Practice	Para. 40 (e) (iii)	This content of this definition remains as a placeholder for further discussion.
Schedule 1 (ISBA/23/LTC/CRP.3)	*Environmental Impact Area* (deleted)		The Commission considered that the concept of an "environmental impact area" may be misleading under the exploitation regulations (as highlighted by some stakeholders), not least the relationship with area-based monitoring tools such as impact reference zones and preservation reference zones. The concept of an "impact area" (project area) will be identified in the environmental impact assessment process, as modified by the environmental impact assessment process itself and under a subsequent environmental management and monitoring plan. The Commission noted that, as regards such "impact areas", [illegible] those impacts having the potential to affect areas beyond the boundary of the contract area, and what considerations or requirements must be reflected to take account of this.